



***SOCC – CHESTERFIELD
EMPOWERING NEIGHBORHOODS FORUM
Saturday, March 9, 2013***

Community Associations and Covenant
Enforcement

presenter:

Andrew G. Elmore

O v e r v i e w

Covenants – What are they?

- recorded**
 - chain of title**
 - legal notice**
 - subsequent purchasers**
- Why have them?**
 - vision of developer**
 - requirement of local government**
 - unique property feature**

Legal Foundations



Counsel sensed that the panel might not be taking his argument as seriously as he had hoped.

Legal Foundations

Property Owners Associations – Governing Documents

- Declaration of Covenants, Conditions & Restrictions (“CC&Rs”; “Declaration”; “Covenants”)
 - Imposes land use restrictions and obligations on lots
 - Recorded in land records
- Articles of Incorporation
 - Creates corporate entity & basic purpose for Assn
- Bylaws
 - Part of corporate records
 - “Nuts & bolts” of corporate operations
- Rules & Regulations, Book of Resolutions
 - Adopted by Board of Directors
 - Clarifications, supplements, policies



Legal Foundations

- **Governing Virginia Law**

- Property Owners' Association Act
 - Owner rights; meetings; document disclosure; resales
 - Liens; assessment of charges; suspension of rights
- Nonstock Corporation Act
- Local law – County ordinances
 - Use of land, zoning, consumer issues

- **Key federal laws**

- Fair Housing Act
- FCC Regulations

Covenant & Rules Enforcement



Covenant and Rules Enforcement

- **What is Enforced?**
 - Recorded Covenants
 - Board-Adopted Rules
 - Architectural Standards
- **Who Enforces?**
 - Association – through Board or Arch. Control Committee
 - Other lot owners



Final Thoughts – Successful Boards

- Education – understand your job
- Good advice – don't reinvent the wheel
- Treat Assn like a business
- Treat all players – even difficult members – with respect – every action makes a record
- Be reasonable

Covenants – The Macro Perspective

- Bargain involves surrender of some freedom
- Clash of selfish desires v. binding bargain
- Solutions for covenants that don't work
 - Amend
 - Move